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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/054,236	01/22/2002	Justin M. Smyers	RPC 0594 PUS	3729
33171	7590	10/07/2003	EXAMINER	
KONSTANTINE J. DIAMOND 4010 E. 26TH STREET LOS ANGELES, CA 90023			ANDERSON, GERALD A	
			ART UNIT	PAPER NUMBER
			3637	
DATE MAILED: 10/07/2003				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/054,236

Applicant(s)

SMYERS ET AL.

Examiner

JERRY A ANDERSON

Art Unit

3637

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 June 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 and 7-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 20-27 is/are allowed.
- 6) ☒ Claim(s) 1-5, 6-19, 28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

Applicant's arguments filed June 14, 2002 have been fully considered but they are not persuasive. The applicant argues that the parting line of Lind is entirely planar. The Examiner disagrees because the parting line of Lind is no more planar than the applicant's parting line. Referring to applicant's figure 14 consider the parting line is represented by the plane of the mating area 46. This area is directly equivalent to the parting line of Lind just as the projections 36, see cross-sectional figures, of Lind are equivalent to the projections 56 of the applicant's invention. As understood the applicant considers the sidewalls and ends of the projections to be part of "the non-planar parting line"; this is also true of the projections of Lind when the surfaces 38, 38 46 and 40 are considered parting line surfaces.

Drawings

INFORMATION ON HOW TO EFFECT DRAWING CHANGES

Replacement Drawing Sheets

Drawing changes must be made by presenting replacement figures which incorporate the desired changes and which comply with 37 CFR 1.84. An explanation of the changes made must be presented either in the drawing amendments, or remarks, section of the amendment. **Any replacement drawing sheet must be identified in the top margin as "Replacement Sheet"** and include all of the figures appearing on the immediate prior version of the sheet, even though only one figure may be amended. The figure or figure number of the amended drawing(s) must not be labeled as "amended." If the changes to the drawing figure(s) are not accepted by the examiner, applicant will be notified of any required corrective action in the next Office action. No further drawing submission will be required, unless applicant is notified.

The applicant's replacement sheet is not identified as such. Correction is required.

Claim Objections

Claim 8 objected to as being of improper dependent form because it is dependent on canceled claim 6 and will not be considered further.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 4, 5, 10, 11, 13-15, 19 and 28 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Lind. Lind discloses two decks 12 and 14 having rows of lugs 16, each lug having mating areas including a recess 32 and a projection 36 resulting in the alternating of projections and recesses in each row. There are two latch members on each lug defined by the tabs 46 having a receiving face and the lips 40 having a shoulder portion providing engagement portions that are not co-planar with each other but co-planar with engagement portions of other lugs. The surfaces 38 are considered "angled"

Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made

to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1, 3, 7, 9, 11, 12 and 16-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Apps et al in view of Lind. Apps is cited showing a first and second deck 10, 40 with tapered recesses 14, 16, 18 engaging tapered projections 54, 50, 52 and latch members at recesses having arm and shoulder portions 22, 26 and tapered portions 24 engaging a receiving face of a projection. Lind fails to show tapered projections and recesses and fails to show a plurality of projections and recesses at each area defined by a single pair of projections 16. Apps fails to show alternating projections and recesses. Lind is cited showing a pallet with mating areas 16 with alternating projections and recesses for the purpose of interlocking the decks. Since the references are from the same field of endeavor the purpose of Lind would have been obvious in the pertinent art of Apps at the time of the invention it would have been obvious for one having an ordinary skill in the art to have modified Apps with alternating projections and recesses at each mating area for the purpose of connecting the decks in view of Lind.

Allowable Subject Matter

Claims 20-27 are allowed.


This action is NOT FINAL.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jerry Anderson whose telephone number is 703 038 2202. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 703 308 2468. The fax phone numbers for the organization where this application or proceeding is assigned is 703 872 9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703 308 2197.

Jaa
October 6, 2003



GERALD A. ANDERSON
PATENT EXAMINER